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10/670,956	09/26/2003	Luisa V. Gravlin	23372.00	7050

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EXAMINER

HOEY, ALISSA L

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/670,956

**Applicant(s)**

GRAVLIN, LUISA V.

**Examiner**

Alissa L. Hoey

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2003.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-4, 6 and 8-18 is/are rejected.  
7) ☒ Claim(s) 5 and 7 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 10 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Damron (US 2,072,030).

Damron provides a garment convertible into a pouch for storage and transport (figures 1-5). A lower torso garment having a front, a back and opposing sides, the lower torso garment being adapted for covering a lower portion of a human torso (figure 1, identifier). A pair of pockets, being rectangular in shape and having three sides attached to the sides of the lower torso garment and an open top side (figure 1, identifiers 11 and 12: page 1, column 2, lines 1-15). Mating halves of a zipper fastener extending around the fixed sides of the pocket (figure 3, identifiers 14 and 15: page 1, column 1, lines 4-12). The lower torso garment when the mating halves of the zipper fastener are joined and zipped around the three fixed sides, the lower torso garment being folded between the pockets (page 1, column 2, lines 30-49). A fastener disposed across the open to side of the pocket for constricting the opening formed by the top side (figures 1 and 3, identifiers 11 and 18). The mating halves of the zipper fastener comprise a first stringer having a pin attached around the three fixed sides on one of the pockets (figure 3, identifier 15). The other pocket having a second stringer having a

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slider attached around the three fixed sides (figure 3, identifier 14). The pin from one pocket being slidable into the slider of the other pocket in order to join the mating halves of the zipper fastener (figure 3, identifiers 14 and 15).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8, 9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Damron.

Damron provides a convertible garment as described above in claim 1. Further, Damron teaches that the convertible garment may be any garment which may be constructed and used as above, including bathing suits, smocks, coats and other raincoats (page 2, column 1, lines 16-21). However, Damron fails to specially teach the lower torso garment comprising a pair of short-shorts or a mini-skirt. Further, Damron fails to teach the pouch measuring between four and five inches long, between three and four inches wide and between two and two and one-half inches thick.

It would have been obvious to an artisan having skill in the apparel arts to have provided the convertible pocket construction on a pair of short-shorts or a mini-skirt, since short-shorts and a mini-skirt are garment having similar construction to bathing suits, which are capable as taught by Damron to have pockets that convert the garment into a pouch carrying case.

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At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have provided the pocket measuring between four and five inches long, between three and four inches wide, and between two and two and one-half inches thick because Applicant has not disclosed that the pocket's length width of thickness provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the pocket having any length, width or thickness as long as the pockets can be joined together to store the garment. Therefore, it would have been an obvious matter of design choice to modify Damron to obtain the invention as specified in claim 12.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Damron in view of Gershman (Velcro Digest article).

Damron fails to teach a tie fastener disposed across the open top side of the pocket. Gershman provides the equivalence and interchangeability of zipper, and tie fasteners (see article).

It would have been obvious to have provided the convertible garment of Damron with a tie fastener of Gershman disposed across the open top side of the pocket, since the top of the pocket having a tie fastener allows the top of the pocket to be adjustable when securing unlike the zipper fastener which only allows one securement position.

6. Claims 2, 3, 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Damron in view of Camarena (US 4,301,545).

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Damron provides a convertible garment as described above in claim 1. Further, Damron teaches that the convertible garment could take the form of a bathing suit. However, Damron fails to teach an upper torso garment matching the lower torso garment and the upper garment being folded and stored in one of the pockets when not in use. Further, Damron fails to teach the upper torso garment comprising a tank top having a midriff portion of the garment cropped off. The tank top comprises a tube having thin straps and being a halter top.

Camarena provides a convertible garment having an upper torso garment matching the lower torso garment (figures 1-5). The upper torso garment comprising a tank top having a midriff portion of the garment cropped off (figures 5, identifiers 22 and 26). The tank top comprises a tube having thin straps and being a halter top (figures 1 and 2, identifiers 16, 18 and 20).

It would have been obvious that the bathing garment of Camarena provided with the convertible pockets system as taught in Damron would allow the bathing suit garment of Camarena with pockets that can be coupled together to store the bathing garment between the pockets. The upper torso garment of Camarena is capable of being folded and stored in one of the pockets when not in use, so the user can store and tote around the swimsuit when not worn by the wearer.

It would have been further obvious to have provided the convertible pocket system of Damron with the bathing garment of Camarena, since the convertible pocket system provided on a bathing suit would provide a garment that can be used for swimming and sunbathing and when finished with swimming or sunbathing can be

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taken off and folded into the pockets forming a pouch to store and carry the garment.

Finally, it would have been obvious to have provided the upper torso garment in the form of a tank top/halter top baring a user's midriff, since this type of upper torso garment offers little coverage of the skin for sun bathing.

7. Claims 13 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Damron in view of Harris (US 5,996,121).

Damron provides a convertible pocket garment as described above in claim 1. However, Damron fails to teach the lower torso garment being made from a lightweight fabric, the zipper fastener formed of metal or plastic and the garment being made out of nylon or polyester. Harris provides a convertible garment being made from a lightweight fabric (column 2, lines 16-21), a zipper fastener formed of metal or plastic (column 4, lines 11-13) and the garment being made out of nylon or polyester (column 2, lines 16-21).

It would have been obvious to have provided the convertible pocket garment of Damron with the lightweight material and metal or plastic zipper fastener of Harris, since the lightweight nylon or polyester material provided in the convertible garment of Damron would provided a garment that is easy to fold compact and light in weight to carry around. Further, the metal or plastic zipper provided for the zipper fastener of Damron would provided a strong and long lasting zipper, the plastic zipper would be rust proof while the metal zipper would be the most durable.

***Allowable Subject Matter***

8. Claims 5 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tait, Cobb, Kowatsch, Paramore, Levy, Brument, Nakanishi, Guidoni, Argento et al., Wallach, Allen, Rennhofer, DeWan, Schlosser, Chow, Fattorusso et al., Fjelstul, Waldman et al., Ronald, Hall, Holland, Kehoe, Capparelli, McCarley and Garcia are all cited to show closely related garments.

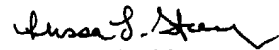
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (703) 308-6094. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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